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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,207

12/02/2005

Dirk Kothen

4100-374PUS

4772

27799

7590

12/11/2008

COHEN, PONTANI, LIEBERMAN & PAVANE LLP  
551 FIFTH AVENUE  
SUITE 1210  
NEW YORK, NY 10176

EXAMINER

MCGRAW, TREVOR EDWIN

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

12/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* DIRK KOTHEN, GERTRUD MEGGENRIEDER, DIETMAR  
PINKERNELL, ANDREAS STICHNOTH and HAKAN YALCIN

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Application No. 10/559,207  
Technology Center 3700

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Mailed: 11 December 2008

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Before LAWRENCE J. BANKS *Paralegal Specialist*  
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, MISSING CERTIFIED TRANSLATION

The Examiner relied on the foreign reference(s) DE 27 46 901 (Marsch et al. issued Jul. 1978) in rejecting the claims. Full certified English translation(s) of the above noted foreign reference(s) are not of record in the Image File Wrapper (IFW).

When an Examiner relies on a document “in a language other than English, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added). MPEP §1207.02. Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: (1) a rejection is supported in whole or part by an abstract without reference to the underlying document, . . . ; or (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

The memorandum also states “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation *must*

be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added).

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) obtain full certified English language translation(s) of the above noted foreign reference(s);
- 2) complete the IFW by having the translation(s) obtained scanned into the IFW file;
- 3) provide copies of the translations obtained to Appellant(s); and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

COHEN, PONTANI, LIEBERMAN & PAVANE LLP  
551 FIFTH AVENUE  
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NEW YORK NY 10176